

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

LAURA A. MINEO,

Plaintiff,

v.

ORDER
12-CV-410

CAROLYN W. COLVIN,

Defendant.

The above-referenced case was referred to Magistrate Judge Leslie G. Foschio pursuant to 28 U.S.C. §636(b)(1)(B). Plaintiff initially sought review of defendant's decision to deny her Disability Insurance Benefits and Supplemental Security Income Benefits. Defendant filed a motion for judgment on the pleadings. On April 15, 2014, Magistrate Judge Foschio issued a Report and Recommendation recommending, *inter alia*, that the motion for judgment on the pleadings be denied because the Administrative Law Judge provided insufficient explanation as to whether evidence of plaintiff's Meniere's disease was sufficient to meet the criteria required for plaintiff to be deemed disabled pursuant to Section 2.07 of the listed impairments. (Dkt. No. 12) Magistrate Judge Foschio recommended remand for further development of the record. *Id.*

On April 29, 2014, defendant filed objections to the portion of the Report and Recommendation recommending dismissal of the motion and remand for further administrative findings. (Dkt. No. 13) Plaintiff filed a response on July 30,

2014 (Dkt. No. 23) and defendant filed a reply on August 6, 2014 (Dkt. No. 24). Oral argument was held on August 18, 2014, and the matter was deemed submitted at that time.

Pursuant to 28 U.S.C. §636(b)(1), this Court must make a *de novo* determination of those portions of the Report and Recommendation to which objections have been made. Upon *de novo* review, and after reviewing the submissions of the parties and hearing argument, the Court adopts the proposed findings of the Report and Recommendation in so far as Magistrate Judge Foschio recommends remand for further development of the record.

Accordingly, for the reasons set forth in Magistrate Judge Foschio's Report and Recommendation, defendant's motion for judgment on the pleadings is denied, the matter is remanded to the Commissioner of Social Security for further development of the record, and the Clerk is instructed to close the case.

SO ORDERED.

Richard J. Arcara
HONORABLE RICHARD J. ARCARA
UNITED STATES DISTRICT COURT

Dated: September 24, 2014

